

**REMARKS**

The present Amendment is in response to the Official Action mailed February 17, 2009 ("the Action"). Although the Action was a final Action, in an e-mail correspondence of May 6, 2009, the Examiner indicated that the present amendment would indeed be entered. This will be discussed more fully below. In the present Amendment, claim 1 has been amended, and claim 39 has been added. Claims 7-24 and 33-38 have either been canceled herein or previously canceled. The following sets forth Applicants' remarks pertaining to the currently pending claims and the Action.

As an initial matter, Applicants respectfully thank the Examiner for indicating in the Action that claims 23 and 25-32 were objected to as being dependent upon a rejected base claim, but allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening claims. Additionally, Applicants respectfully thank the Examiner for conducting the telephone discussion of April 15, 2009 with the undersigned, and for corresponding via e-mail with the undersigned on April 29, 2009 and May 6, 2009. Pursuant to the Examiner's suggestions in the April 15<sup>th</sup> discussion, the undersigned forwarded the Examiner a draft set of amended claims via e-mail on April 29, 2009. In those draft claims, previously presented independent claims 1 and 33 were amended to include the subject matter set forth in noted allowable dependent claim 23, and a new claim 39 was included that essentially combined previously presented independent claim 1 with noted allowable dependent claim 25.

In the Examiner's May 6<sup>th</sup> reply, he indicated that the amendment to claim 1 looked proper and contained all the objected subject matter as presented in the Final Office Action. The Examiner also agreed that new claim 39 looked proper and contained all of the objected subject matter of claim 25.

However, with regard to the proposed amendment of independent claim 33, the Examiner indicated that such would require further consideration since the limitations added to the claim had not been considered in view of independent claim 33. The Examiner in fact suggested canceling claim 33 and any dependent claims depending therefrom.

Applicants have proceeded in line with the Examiner's suggestions. Specifically, in the present Amendment, Applicants have amended claim 1 in an identical fashion as was presented to the Examiner via e-mail, canceled independent claim 33 and the claims depending therefrom (*i.e.*, dependent claims 34-38), and added new independent claim 39 (as it was also previously presented to the Examiner). Given the fact that independent claim 1 includes the noted allowable subject matter of dependent claim 23 and new independent claim 39 includes all of the subject matter noted allowable in dependent claim 25, as well as the fact that the Examiner previously agreed that such claims constituted allowable subject matter, Applicants respectfully request that such claims be allowed. Likewise, because the remaining claims properly depend from independent claim 1 or an intervening claim, Applicants also respectfully request that such be allowed. Therefore, in light of all of the above, applicants respectfully request allowance of each and everyone of the currently pending claims. Applicants do reserve the right to pursue any of the canceled and/or broader subject matter in one or more continuing applications related to the present case.

Finally, pursuant to the Examiner's indications that he would enter the present amendment if it were presented in this fashion, Applicants respectfully request that the present After Final Amendment indeed be entered and the case be allowed. Should the Examiner, for any reason, decide to not enter the

present amendment or not allow the present case, he is requested to contact the undersigned.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have. If there are any additional charges in connection with this requested Amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: June 8, 2009

Respectfully submitted,

By 

Kevin M. Kocun

Registration No.: 54,230

LERNER, DAVID, LITTENBERG,

KRUMHOLZ & MENTLIK, LLP

600 South Avenue West

Westfield, New Jersey 07090

(908) 654-5000

Attorney for Applicants